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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/577,639

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EXAMINER

NGUYEN, AN V

ART UNIT

PAPER NUMBER

2426

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,639	Applicant(s) VERMOLA ET AL.	
	Examiner AN NGUYEN	Art Unit 2426	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/01/2009 and 8/05/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

Response to amendment filed 05/08/2009. Claims 1-3, 5, 7-13, 15-16, and 18-21 have been amended. Claim 6 has been canceled. Claims 22-32 have been newly added. Claims 1-5 and 7-32 are pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-5, 7-9, 19-23 and 25** are rejected under 35 U.S.C. 102(b) as being anticipated by Lindqvist et al., US PG Pub # 20030088778.

Regarding claim 1, A method of operating a datacast service system, comprising providing electronic service guide data relating to one (fig. 8, ¶ 0096) or more services and providing supplementary data which is specific to and which is selectively provided by a datacast operator (¶ 0096; Lindqvist describes an ESG that contains offerings and a unique identifier (supplemental data) related to the distribution of the offering – the identifier shows the user when the content will be distributed).

Regarding claim 2, A method according to claim 1, comprising providing a main page of the datacast operator including at least some of said supplementary data (¶ 0096,

the unique identifier and scheduling information is listed on the ESG main page, which is the page that contains the listing of the services).

Regarding claim 3, A method according to claim 2, further comprising providing one or more data files including information for locating said main page (¶ 0049, scheduled files, carouseled files, and instant files; the carouseled files will locate the ESG service to display the items on the carousel).

Regarding claim 4, A method according to claim 3, wherein said one or more data files include information for locating at least one service main page (¶ 0049, A session can consist of one or many items of a services (e.g., scheduled files, carouseled files, and instant files; as stated, the services are located on the ESG, corresponding to a service main page)).

Claim 5 is the computer program to execute the steps of any of claims 1-4, and is analyzed and rejected accordingly.

Claim 7 is the apparatus to execute the steps of claim 1 and is analyzed and rejected accordingly.

Claim 8 is the processor configured to execute the steps of claim 1, and is analyzed and rejected accordingly. The system of Lindqvist inherently is run by a processor.

Regarding claim 9, A method of operating a terminal for receiving datacast services, the method comprising receiving electronic service guide (ESG) data relating to one or more services and receiving supplementary data which is specific to and which is provided by a datacast operator (fig. 8, ¶ 0088 , ¶ 0096, a listing could be referred to as an

electronic service guide (ESG) and user may select items from this schedule for viewing, download, or the like according to receiving supplementary data supplied by datacast operator).

Claim 19 is analyzed and rejected on the same grounds as claim 1.

Claim 20 is analyzed and rejected on the same grounds as claim 1. A user inherently uses a terminal to receive the ESG data.

Regarding claim 21, Lindqvist further discloses comprising means for receiving datacast transmissions and means for communicating with public land mobile network(¶ 0162-¶ 0166, cellular phone, PDA).

Claim 22 is analyzed and rejected according to claim 1. The supplementary data provided is provided by the datacast operator.

Claim 23 is analyzed and rejected according to claim 2. The supplementary data of Lindqvist (unique identifier and scheduling information is listed on the main page (paragraph ¶ 0096).

Claim 25 is analyzed and rejected according to claims 9 and 2.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 10-16, 18, 24 and 26-32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindqvist in view of Urdang, (US 20040078811).

Regarding claim 10, Lindqvist discloses a method according to claim 9, however fails to disclose wherein said supplementary data is received before said electronic service guide data. In an analogous art, Urdang disclose a method of distributing electronic program guide data. In paragraph ¶ 0022, Urdang discloses that a program identification code is used to locate the corresponding EPG data (corresponding to ESG data). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teaching of Urdang of locating corresponding EPG data when the program is presented in order to create in real time a metadata file associated with the TV program (Urdang, paragraph ¶ 0022).

Regarding claim 11, Lindqvist further discloses comprising using said supplementary data to locate said electronic service guide data (¶ 0119, a user could navigate such a tree to find leaves corresponding to items (e.g., programs, services, and/or the like) of interest according to supplementary data to locate ESG data).

Regarding claim 12, Lindqvist further discloses receiving a main page including at least some of said supplementary data ((¶ 0096, the unique identifier and scheduling information is listed on the ESG main page, which is the page that contains the listing of the services).

Regarding claim 13, Lindqvist further discloses providing one or more data files including information for locating said main page (¶ 0049, scheduled files, carouseled

files, and instant files; the carouseled files will locate the ESG service to display the items on the carousel).

Regarding claim 14, Lindqvist further discloses wherein said one or more data files include information for locating at least one service main page (¶ 0049, A session can consist of one or many items of a services (e.g., scheduled files, carouseled files, and instant files; as stated, the services are located on the ESG, corresponding to a service main page).

Regarding claim 15, Lindqvist further discloses further comprising receiving datacast data via a first network, receiving other data from a second, different network and displaying said supplementary data of said datacast data and said other data (fig. 8, ¶ 0088 each network area contains a broker module that receives messages from both a global caster module and the local caster module corresponding to that area).

Regarding claim 16, Lindqvist further discloses comprising displaying said supplementary data and a list of services and selecting one (¶ 0096 the service offerings are listed for user selection) or more services.

Claim 18 is the computer program to execute the method of claim 9 and is analyzed and rejected accordingly.

Regarding claim 24, Lindqvist discloses a method according to claim 10, however fails to disclose wherein said supplementary data is received before said electronic service guide data. In an analogous art, Urdang disclose a method of distributing electronic program guide data. In paragraph ¶ 0022, Urdang discloses that a program identification code is used to locate the corresponding EPG data (corresponding

to ESG data). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teaching of Urdang of locating corresponding EPG data when the program is presented in order to create in real time a metadata file associated with the TV program (Urdang, paragraph ¶ 0022).

Claim 26, Lindqvist further discloses further comprising receiving datacast data via a first network, receiving other data from a second, different network and displaying said supplementary data of said datacast data and said other data (fig. 8, ¶ 0088 each network area contains a broker module that receives messages from both a global caster module and the local caster module corresponding to that area. ¶ 0089, the metadata is then transmitted via the network for display to the user).

Claims 27-32, Urdang further discloses wherein the supplementary data includes data for identifying the datacast operator. In paragraph ¶ 0022, Urdang discloses that a program identification code is used to locate the corresponding EPG data (corresponding to ESG data); the system of Urdang discloses identifying content which identifies the location of the EPG content, corresponding to identifying the datacast operator based on the location information). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teaching of Urdang of locating corresponding EPG data when the program is presented in order to create in real time a metadata file associated with the TV program.

5. **Claim 17** is rejected under 35 U.S.C. 103(a) as being unpatentable over Lindqvist in view of Urdang in view of Dale et al, (US 20040022307).

Regarding claim 17, Lindqvist in view of Urdang discloses a method according to claim 9, however fails to disclose intermittently switching on a receiver to receive one or more time-sliced bursts of data and switching off said receiver. Dale discloses generating a power on/off control signal at a receiver when a data burst is detected (§ 0091). It would have been obvious to one of ordinary skill in the art at time the invention was made to apply the teaching of Dale of cycling power at a receiver to the system of Lindqvist in view of Urdang that receives data in the form of an ESG, in order to save power when there is no incoming data on a device such as a cell-phone with limited power as is used in the system of Lindqvist (§ 0162-§ 0166, cellular phone, PDA).

Response to Arguments

Applicant's arguments filed 05/08/2009 regarding claims 1-9 and 19-21 have been fully considered but they are not persuasive. Applicant argues that the amendments to these claims overcome Lindqvist. Examiner disagrees. The language added the claims recites that the supplementary data is specific to the datacast operator. The system of Lindqvist provides a unique identifier (supplemental data), which shows the user when the content will be distributed, which is specific to the provider. To the extent that language is meant to recite that the supplementary data identifies the provider, the language is broad enough to incorporate the teaching of Lindqvist which uses the identifier to show the user when the content will be distributed.

Applicant's arguments with respect to claim 10-17 have been considered but are moot in view of the new ground(s) of rejection.

Examination Considerations

6. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. In re Prater, 415 F.2d, 1393, 1404-05, 162 USPQ 541,550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.
7. Examiner's Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.
8. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

9. Examiner's Opinion: ¶¶ 6-8 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

10. The prior art record and not relied upon is considered pertinent to application's disclosure.

-Linden, US-2002/0106987

- Burke, US-2005/0039177

-Hoffberg et al, US-6400996

11. **Claims 1-5 and 7-32** are rejected.

Correspondence Information

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AN NGUYEN whose telephone number is (571)270-5676. The examiner can normally be reached on Mon-Fri: 8:00 AM-5:30 PM; off alternative Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph P. Hirl can be reached on 571-272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AN NGUYEN/
Examiner, Art Unit 2426

AVN

/Joseph P. Hirl/
Supervisory Patent Examiner, Art Unit 2426
September 30, 2009